

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMANTHA CULP,

Plaintiff,

CASE NO. 1:11-CV-673

v.

HON. ROBERT J. JONKER

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Brenneman's Report and Recommendation in this matter (docket # 18) and Plaintiff's Objections to the Magistrate Judge's Report and Recommendation (docket # 19). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge, the Report and Recommendation itself, and Plaintiff's objections. After its review, the Court finds that Magistrate Judge Brenneman's Report and Recommendation is factually sound and legally correct, and that the Commissioner's decision to deny Disability Insurance Benefits ("DIB") and Supplemental Security Income ("SSI") to Plaintiff should be affirmed. (Report and Recommendation, docket # 18, at 10.)

In her Objection, Plaintiff argues that assessments conducted in advance of the Administrative Law Judge's ("ALJ's") decision clearly establish that she suffers from serious mental limitations. (Plaintiff's Objection., docket # 19, at 3.) That Defendant is mentally impaired is not in dispute, nor is it dispositive of Defendant's right to DIB and SSI. Rather, the pertinent question is to what degree Plaintiff's impairment affected her ability to do other work. *See Heston v. Comm'r of Soc. Sec.*, 245 F.3d 528, 534 (6th Cir. 2001) (requiring plaintiff claiming disability to prove, not only a severe impairment, but, also, that she cannot do her past relevant work or other work that exists in the national economy). As Magistrate Judge Brenneman noted in his Report and Recommendation, the record includes evidence sufficient to support the ALJ's conclusion that, serious though Plaintiff's impairments may be, she is still capable of working a variety of jobs. (Report and Recommendation, docket # 18, at 7.)

Plaintiff's other objections essentially reassert the principal claims she has raised at earlier stages in this matter. The Report and Recommendation fully addresses those claims. The Magistrate Judge carefully and thoroughly considered the record in the case and properly applied the law to the facts. Nothing in the Objection changes the analysis. In particular, this Court may not disregard the ALJ's credibility determinations or re-weigh the evidence, as Plaintiff invites it to do. *Brainard v. Sec'y of Health & Humans Servs.*, 889 F.2d 679, 681 (6th Cir. 1989). This

Court's review is limited to determining whether the record contains substantial evidence from which a reasonable factfinder could conclude that Plaintiff was not entitled to BID or SSI. *Young v. Secretary of Health & Human Servs.*, 925 F.2d 146, 147 (6th Cir. 1990). As Magistrate Judge Brenneman concluded in his Report and Recommendation, the 452-page record of plaintiff's mental impairments provided substantial evidence to support the Commissioner's decision here. (Report and Recommendation, docket # 18, at 7.) *See Willibanks v. Sec'y of Health & Human Servs.*, 847, F.2d 301, 303 (6th Cir. 1988) (fact that record contains evidence that would support a different conclusion does not undermine Commissioner's decision where substantial evidence in the record supports that decision).

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 18) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

Dated: September 28, 2012

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE